

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT E.D.N.Y.

★ APR 23 2010 ★

BROOKLYN OFFICE

THOMAS SOBCZAK, JR.

Plaintiff,

vs.

CAPITAL MANAGEMENT SERVICES,
LP

Defendant.

CV 10 - 1848

COMPLAINT **WEXLER, J.**

Jury Trial Demanded

WALL, M.J.

PLAINTIFF, Thomas Sobczak, Jr. ("Plaintiff"), by and through the undersigned attorney, files this Complaint against DEFENDANT, Capital Management Services, LP ("Defendant"), and alleges as follows:

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's violations of the following provisions, resulting from abusive behavior against Plaintiff in the course of Defendant's attempt to collect a debt:

- (1) The Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (hereinafter "FDCPA").

II. JURISDICTION

2. The FDCPA claim arises under 15 U.S.C. § 1692k(d), and therefore involves a "federal question" pursuant to 28 USC § 1331.

III. PARTIES

3. Plaintiff, Thomas Sobczak, Jr. ("Plaintiff"), is a natural person residing in Nassau County, New York.
4. Defendant, Capital Management Services, LP, ("Defendant") is a corporation engaged in the business of collecting debts by use of the mails and telephone, and Defendant regularly attempts to collect debts alleged to be due another.

IV. FACTUAL ALLEGATIONS

5. Defendant is a "debt collector" as defined by the FDCPA, 15 U.S.C. § 1692a(6).
6. Plaintiff is a "consumer" as defined by the FDCPA, 15 U.S.C. § 1692a(3).
7. All activities of Defendant set out herein were undertaken in connection with the collection of a "debt," as defined by 15 USC § 1692a(5).
8. Within the last year, Defendant contacted Plaintiff by telephone in an attempt to collect an alleged outstanding debt. During that telephone conversation, Defendant engaged in conduct of the natural consequence of which is to harass, oppress, or abuse Plaintiff, including Defendants collection agents repeatedly calling Plaintiffs place of business beginning on March 5, 2010, looking for Carol Sobczak, and refusing to stop the calls after being informed that there is no such person connected to Plaintiffs telephone number and that the calls were disrupting the Plaintiffs business (§ 1692d)).
9. As a result of the aforementioned violations, Plaintiff suffered and continues to suffer injuries to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and severe emotional distress.

10. Defendant intended to cause, by means of the actions detailed above, injuries to Plaintiff's feelings, personal humiliation, embarrassment, mental anguish and severe emotional distress.
11. Defendant's action, detailed above, was undertaken with extraordinary disregard of, or indifference to, known or highly probable risks to purported debtors.
12. Defendant's actions, detailed above, constituted an extraordinary transgression of the bounds of socially tolerable conduct
13. To the extent Defendant's actions, detailed above, were carried out by an employee of Defendant, that employee was acting within the scope of his or her employment.

PRAYER FOR RELIEF

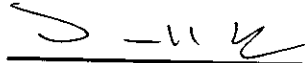
WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. Declaratory judgment that Defendant's conduct violated the FDCPA;
- B. Actual damages pursuant to 15 USC 1692k;
- C. Statutory damages pursuant to 15 U.S.C. § 1692k;
- D. Costs, disbursements and reasonable attorney's fees for all successful claims, and any unsuccessful claims arising out of the same transaction or occurrence as the successful claims, pursuant to 15 U.S.C. § 1692k; and,
- E. For such other and further relief as may be just and proper.

This 21st day of April, 2010.

ATTORNEYS FOR PLAINTIFF
Thomas Sobczak, Jr.

Respectfully submitted,



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